

108TH CONGRESS  
2D SESSION

# H. R. 3853

To amend the Balanced Budget and Emergency Deficit Control Act of 1985 to extend the discretionary spending limits through fiscal year 2009, to extend paygo for direct spending, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 26, 2004

Mr. BARRETT of South Carolina (for himself and Mr. HENSARLING) introduced the following bill; which was referred to the Committee on the Budget, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Balanced Budget and Emergency Deficit Control Act of 1985 to extend the discretionary spending limits through fiscal year 2009, to extend paygo for direct spending, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Common Sense Spend-  
5 ing Act of 2004”.

1 **SEC. 2. EXTENSION OF DISCRETIONARY SPENDING LIMITS.**

2 (a) ADJUSTMENTS TO DISCRETIONARY SPENDING  
3 LIMITS.—In the matter that precedes subparagraph (A)  
4 of section 251(b)(2) of the Balanced Budget and Emer-  
5 gency Deficit Control Act of 1985, strike “through 2002”.

6 (b) DISCRETIONARY SPENDING LIMIT.—Section  
7 251(c) of the Balanced Budget and Emergency Deficit  
8 Control Act of 1985 is amended as follows:

9 (1) Strike paragraphs (1) through (16) and in-  
10 sert the following new paragraphs:

11 “(1) with respect to fiscal year 2005, for the  
12 discretionary category: \$816,404,000,000 in total  
13 new budget authority of which not less than  
14 \$420,676,000,000 shall be for the defense category  
15 and of which not less than \$28,144,000,000 shall be  
16 for homeland security activities outside of the de-  
17 fense category and \$912,992,000,000 in total out-  
18 lays of which not less than \$448,197,000,000 shall  
19 be for the defense category and of which not less  
20 than \$28,738,000,000 in total outlays shall be for  
21 the homeland security category outside of the de-  
22 fense category;

23 “(2) with respect to fiscal year 2006, for the  
24 discretionary category: an amount of new budget au-  
25 thority equal to the amount of total new budget au-  
26 thority specified in paragraph (1) adjusted to reflect

1 the change in Consumer Price Index over the pre-  
2 vious 12 months prior to October 1, 2004;

3 “(3) with respect to fiscal year 2007, for the  
4 discretionary category: an amount of new budget au-  
5 thority equal to the amount of total new budget au-  
6 thority provided under paragraph (2) adjusted to re-  
7 flect the change in Consumer Price Index over the  
8 previous 12 months prior to October 1, 2005;

9 “(4) with respect to fiscal year 2008, for the  
10 discretionary category: an amount of new budget au-  
11 thority equal to the amount of total new budget au-  
12 thority specified in paragraph (3) adjusted to reflect  
13 the change in Consumer Price Index over the pre-  
14 vious 12 months prior to October 1, 2006; and

15 “(5) with respect to fiscal year 2009, for the  
16 discretionary category: an amount of new budget au-  
17 thority equal to the amount of total new budget au-  
18 thority specified in paragraph (4) adjusted to reflect  
19 the change in Consumer Price Index over the pre-  
20 vious 12 months prior to October 1, 2007;”.

21 (c) ADJUSTMENTS TO DISCRETIONARY SPENDING  
22 LIMITS.—

23 (1) Section 251(b)(2) of the Balanced Budget  
24 and Emergency Deficit Control Act of 1985 is  
25 amended by striking subparagraphs (C) through (H)

1       and by inserting after subparagraph (B) the fol-  
2       lowing new subparagraph:

3               “(C) ACCRUAL ACCOUNTING.—If a bill or  
4       joint resolution is enacted that charges Federal  
5       agencies for the full cost of accrued Federal re-  
6       tirement and health benefits and a bill or joint  
7       resolution making appropriations is enacted  
8       that provides new budget authority to carry out  
9       the legislation charging Federal agencies for  
10      such accrued costs, the adjustment shall be  
11      equal to the reduction in mandatory budget au-  
12      thority and the outlays flowing therefrom esti-  
13      mated to result from the legislation charging  
14      Federal agencies for such accrued costs.”.

15           (2) Section 251(b)(2)(A) of the Balanced Budg-  
16      et and Emergency Deficit Control Act of 1985 is  
17      amended by striking the last sentence.

18           (d) DEFINITION OF CONSUMER PRICE INDEX.—Sec-  
19      tion 3 of the Congressional Budget and Impoundment  
20      Control Act of 1974 is amended by adding at the end the  
21      following new paragraph:

22               “(11) The term ‘Consumer Price Index’ refers  
23      to the Consumer Price Index for All Urban Con-  
24      sumers (all items; United States city average), pub-  
25      lished by the Bureau of Labor Statistics.”.

1 **SEC. 3. EXTENSION OF PAY-AS-YOU-GO.**

2 Section 252 of the Balanced Budget and Emergency  
3 Deficit Control Act of 1985 is amended to read as follows:

4 **“SEC. 252. ENFORCING PAY-AS-YOU-GO.**

5 “(a) PURPOSE.—The purpose of this section is to as-  
6 sure that any legislation enacted before October 1, 2009,  
7 affecting direct spending that increases the deficit will  
8 trigger an offsetting sequestration.

9 “(b) SEQUESTRATION.—

10 “(1) TIMING.—Not later than 15 calendar days  
11 after the date Congress adjourns to end a session  
12 and on the same day as a sequestration (if any)  
13 under section 251, there shall be a sequestration to  
14 offset the amount of any net deficit increase caused  
15 by all direct spending legislation enacted before Oc-  
16 tober 1, 2009, as calculated under paragraph (2).

17 “(2) CALCULATION OF DEFICIT INCREASE.—  
18 OMB shall calculate the amount of deficit increase  
19 or decrease by adding—

20 “(A) all OMB estimates for the budget  
21 year of direct spending legislation transmitted  
22 under subsection (d);

23 “(B) the estimated amount of savings in  
24 direct spending programs applicable to budget  
25 year resulting from the prior year’s sequestra-  
26 tion under this section or, if any, as published

1 in OMB's final sequestration report for that  
2 prior year; and

3 “(C) any net deficit increase or decrease in  
4 the current year resulting from all OMB esti-  
5 mates for the current year of direct spending  
6 legislation transmitted under subsection (d) of  
7 this section that were not reflected in the final  
8 OMB sequestration report for the current year;  
9 and

10 “(D) for fiscal year 2005, before making  
11 the calculations required in subparagraphs (A)  
12 through (C), OMB shall assume an automatic  
13 deficit increase of \$7,400,000,000.

14 “(c) ELIMINATING A DEFICIT INCREASE.—(1) The  
15 amount required to be sequestered in a fiscal year under  
16 subsection (b) shall be obtained from non-exempt direct  
17 spending accounts from actions taken in the following  
18 order:

19 “(A) FIRST.—All reductions in automatic  
20 spending increases specified in section 256(a) shall  
21 be made.

22 “(B) SECOND.—If additional reductions in di-  
23 rect spending accounts are required to be made, the  
24 maximum reductions permissible under sections  
25 256(b) (guaranteed and direct student loans) and

1       256(c) (foster care and adoption assistance) shall be  
2       made.

3           “(C) THIRD.—(i) If additional reductions in di-  
4       rect spending accounts are required to be made,  
5       each remaining non-exempt direct spending account  
6       shall be reduced by the uniform percentage nec-  
7       essary to make the reductions in direct spending re-  
8       quired by paragraph (1); except that the medicare  
9       programs specified in section 256(d) shall not be re-  
10      duced by more than 4 percent and the uniform per-  
11      centage applicable to all other direct spending pro-  
12      grams under this paragraph shall be increased (if  
13      necessary) to a level sufficient to achieve the re-  
14      quired reduction in direct spending.

15           “(ii) For purposes of determining reductions  
16      under clause (i), outlay reductions (as a result of se-  
17      questration of Commodity Credit Corporation com-  
18      modity price support contracts in the fiscal year of  
19      a sequestration) that would occur in the following  
20      fiscal year shall be credited as outlay reductions in  
21      the fiscal year of the sequestration.

22           “(2) For purposes of this subsection, accounts shall  
23      be assumed to be at the level in the baseline for fiscal  
24      year 2005 and for fiscal years 2006 through 2009 at the

1 baseline after adjusting for any sequester in fiscal year  
2 2005.

3 “(d) ESTIMATES.—

4 “(1) CBO ESTIMATES.—As soon as practicable  
5 after Congress completes action on any direct spend-  
6 ing, CBO shall provide an estimate to OMB of that  
7 legislation.

8 “(2) OMB ESTIMATES.—Not later than 7 cal-  
9 endar days (excluding Saturdays, Sundays, and legal  
10 holidays) after the date of enactment of any direct  
11 spending, OMB shall transmit a report to the House  
12 of Representatives and to the Senate containing—

13 “(A) the CBO estimate of that legislation;

14 “(B) an OMB estimate of that legislation  
15 using current economic and technical assump-  
16 tions; and

17 “(C) an explanation of any difference be-  
18 tween the 2 estimates.

19 “(3) SIGNIFICANT DIFFERENCES.—If during  
20 the preparation of the report under paragraph (2)  
21 OMB determines that there is a significant dif-  
22 ference between the OMB and CBO estimates, OMB  
23 shall consult with the Committees on the Budget of  
24 the House of Representatives and the Senate regard-  
25 ing that difference and that consultation, to the ex-



1       tent practicable, shall include written communication  
2       to such committees that affords such committees the  
3       opportunity to comment before the issuance of that  
4       report.

5               “(4) SCOPE OF ESTIMATES.—The estimates  
6       under this section shall include the amount of  
7       change in outlays for the current year (if applica-  
8       ble), the budget year, and each outyear excluding  
9       any amounts resulting from—

10               “(A) full funding of, and continuation of,  
11       the deposit insurance guarantee commitment in  
12       effect under current estimates; and

13               “(B) emergency provisions as designated  
14       under subsection (e).

15               “(5) SCOREKEEPING GUIDELINES.—OMB and  
16       CBO, after consultation with each other and the  
17       Committees on the Budget of the House of Rep-  
18       resentatives and the Senate, shall—

19               “(A) determine common scorekeeping  
20       guidelines; and

21               “(B) in conformance with such guidelines,  
22       prepare estimates under this section.

23               “(e) EMERGENCY LEGISLATION.—If a provision of  
24       direct spending legislation is enacted that the President  
25       designates as an emergency requirement and that the Con-

gress so designates in statute, the amounts of new budget authority, outlays, and receipts in all fiscal years resulting from that provision shall be designated as an emergency requirement in the reports required under subsection (d) of this section.”.

**SEC. 4. CONFORMING AMENDMENTS.**

(a) EXPIRATION.—(1) Section 254(c)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking “2002” and inserting “2009”.

(2) Section 254(f)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking “2002” and inserting “2009”.

(b) EXPIRATION.—Section 275(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking “2002” and inserting “2009”.

**SEC. 5. EMERGENCY SPENDING LEGISLATION AND THE BASELINE.**

(a) IN GENERAL.—Section 257(a) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by inserting “, except for emergency appropriations covered by section 251(b)(2)(A) and emergency legislation covered by section 252(e)” before the period.

(b) DIRECT SPENDING AND RECEIPTS.—Section 257(b)(2) of the Balanced Budget and Emergency Deficit

1 Control Act of 1985 is amended by adding at the end the  
2 following new subparagraph:

3 “(E) Emergency legislation covered by sec-  
4 tion 252(e) shall not be extended in the base-  
5 line.”.

6 (c) DISCRETIONARY APPROPRIATIONS.—Section  
7 257(c) of the Balanced Budget and Emergency Deficit  
8 Control Act of 1985 is amended by adding at the end the  
9 following new paragraph:

10 “(7) Emergency appropriations covered by sec-  
11 tion 251(b)(2)(A) shall not be extended in the base-  
12 line.”.

13 **SEC. 6. OMB EMERGENCY CRITERIA.**

14 (a) DEFINITION OF EMERGENCY.—Section 3 of the  
15 Congressional Budget and Impoundment Control Act of  
16 1974 (as amended by section 2(d) is further amended by  
17 adding at the end the following new paragraph:

18 “(12)(A) The term ‘emergency’ means a situa-  
19 tion that—

20 “(i) requires new budget authority  
21 and outlays (or new budget authority and  
22 the outlays flowing therefrom) for the pre-  
23 vention or mitigation of, or response to,  
24 loss of life or property, or a threat to na-  
25 tional security; and

1 “(ii) is unanticipated.

2 “(B) As used in subparagraph (A), the  
3 term ‘unanticipated’ means that the underlying  
4 situation is—

5 “(i) sudden, which means quickly  
6 coming into being or not building up over  
7 time;

8 “(ii) urgent, which means a pressing  
9 and compelling need requiring immediate  
10 action;

11 “(iii) unforeseen, which means not  
12 predicted or anticipated as an emerging  
13 need; and

14 “(iv) temporary, which means not of a  
15 permanent duration.”.

16 (b) CONFORMING AMENDMENT.—Section 250(c) of  
17 the Balanced Budget and Emergency Deficit Control Act  
18 of 1985 is amended by adding at the end the following  
19 new paragraph:

20 “(20) The term ‘emergency’ has the meaning  
21 given to such term in section 3 of the Congressional  
22 Budget and Impoundment Control Act of 1974.”.

1 **SEC. 7. RULE RESPECTING DESIGNATION OF LEGISLATIVE**  
2 **PROVISION AS AN EMERGENCY.**

3 (a) IN GENERAL.—Title III of the Congressional  
4 Budget Act of 1974 is amended by adding at the end the  
5 following new section:

6 “RULE RESPECTING DESIGNATION OF LEGISLATIVE  
7 PROVISION AS AN EMERGENCY

8 “SEC. 316. (a) GUIDANCE.—In making a designation  
9 of a provision of legislation as an emergency requirement  
10 under section 251(b)(2)(A) or 252(e) of the Balanced  
11 Budget and Emergency Deficit Control Act of 1985, the  
12 committee report and any statement of managers accom-  
13 panying that legislation shall analyze whether a proposed  
14 emergency requirement meets the definition of an ‘emer-  
15 gency’ set out in section 3 of the Congressional Budget  
16 and Impoundment Control Act of 1974.

17 “(b) IN GENERAL.—It shall not be in order in the  
18 Senate or the House of Representatives to consider any  
19 bill, joint resolution, or conference report that contains an  
20 emergency designation under section 251(b)(2)(A) or  
21 252(e) of the Balanced Budget and Emergency Deficit  
22 Control Act of 1985 unless the proposed emergency re-  
23 quirement meets the definition of an ‘emergency’ set out  
24 in section 3 of the Congressional Budget and Impound-  
25 ment Control Act of 1974.

1       “(c) WAIVER AND APPEAL IN THE SENATE.—This  
2 section may be waived or suspended in the Senate only  
3 by an affirmative vote of three-fifths of the Members, duly  
4 chosen and sworn. An affirmative vote of three-fifths of  
5 the Members of the Senate, duly chosen and sworn, shall  
6 be required in the Senate to sustain an appeal of the rul-  
7 ing of the Chair on a point of order raised under this sec-  
8 tion.

9       “(d) ENFORCEMENT IN THE HOUSE OF REPRESENT-  
10 ATIVES.—It shall not be in order in the House of Rep-  
11 resentatives to consider a rule or order that waives the  
12 application of subsection (b).

13       “(e) DISPOSITION OF POINTS OF ORDER IN THE  
14 HOUSE.—As disposition of a point of order under sub-  
15 section (b) or subsection (d), the Chair shall put the ques-  
16 tion of consideration with respect to the proposition that  
17 is the subject of the point of order. A question of consider-  
18 ation under this section shall be debatable for 10 minutes  
19 by the Member initiating the point of order and for 10  
20 minutes by an opponent of the point of order, but shall  
21 otherwise be decided without intervening motion except  
22 one that the House adjourn or that the Committee of the  
23 Whole rise, as the case may be.

24       “(f) EFFECT ON AMENDMENT IN ORDER AS ORIGI-  
25 NAL TEXT IN THE HOUSE.—The disposition of the ques-

1 tion of consideration under this section with respect to a  
2 bill or joint resolution shall be considered also to deter-  
3 mine the question of consideration under this subsection  
4 with respect to an amendment made in order as original  
5 text.”.

6 (b) CONFORMING AMENDMENT.—The table of con-  
7 tents set forth in section 1(b) of the Congressional Budget  
8 and Impoundment Control Act of 1974 is amended by in-  
9 serting after the item relating to section 315 the following  
10 new item:

“Sec. 316. Rule respecting designation of legislative provision as an emer-  
gency.”.

○